

OGC Has Reviewed

Headquarters

EMPLOYEE BULLETIN

STAT

13 September 1972

CIVIL LITIGATION INVOLVING VICTOR L. MARCHETTI

1. The Circuit Court of Appeals for the Fourth Circuit on 11 September affirmed the trial court's decision requiring Mr. Marchetti to comply with the terms of his secrecy agreement with CIA.

2. The opinion states as follows:

Conclusion

For the stated reasons, our conclusion is that the secrecy agreement executed by Marchetti at the commencement of his employment was not in derogation of Marchetti's constitutional rights. Its provision for submission of material to the CIA for approval prior to publication is enforceable, provided the CIA acts promptly upon such submissions and withholds approval of publication only of information which is classified and which has not been in the public domain by prior disclosure.

3. This is the first judicial recognition and enforcement of the Agency's secrecy agreement, the validity of which the Court accepted as needed to carry out the Director's responsibility for the protection of intelligence sources and methods. The technical requirement for Mr. Marchetti to submit his manuscript for review by the Agency prior to publication, however, does not prevent him from writing critical articles about the Agency, nor has the Agency ever contended that it would or should.

4. Mr. Marchetti may now appeal the case to the U. S. Supreme Court. The steps required to have a case heard by the Supreme Court are quite involved, and we are not able to predict whether the Supreme Court will grant the necessary writ of certiorari.

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